Remarks

The Examiner has rejected claims 1-7 and 13-15 under 35 U.S.C. §103(a) as being unpatentable over the website www.collectivedesign.scom ("CollectiveDesign") in view of Apmatics AutoCAD Application Programs ("Apmatics"), claims 8-11 and 16-19 in view of CollectiveDesign over Apmatics and in further view of www.choochoobuilditmart.com ("ChooChoo"), claims 20-22 over the website CollectiveDesign and the book "Managing Projects with Microsoft Project 4.0" by Glen Lowery ("Lowery"), and claims 2 and 12 in view of CollectiveDesigns. Based on the following Remarks, Applicants' invention is patentable over the cited art.

Applicants' invention is directed to a system for automating construction services. Independent claim 1 requires software executing on a computer for creating a home plan based on received responses to the transmitted queries. The received response is from a user and the software creates a home plan based on this user inputted information. Independent claims 1, 12, and 23 all require software executing on a computer for creating a modified home plan based upon received requests for modification.   In all of claims 1, 12 , and 23, the computer receives user input and software executing on the computer creates a modified home plan based on this user inputted information. Additionally, claims 1 and 23 require software executing on the computer for performing work package calculations, which are a breakdown of all components to design and construct a home (page 10, lines 17-20).

Neither CollectiveDesign nor APmatics discloses, teaches, or suggests software for creating a home plan or a modified home plan based upon received responses or requests from users. Also, neither reference discloses, teaches, or suggests software executing on the computer for performing work package calculations, which are a breakdown of all components to design and construct a home.

CollectiveDesign relates to a website that provides a user with access to a database of home plans. The user may search for a plan by a variety of criteria, such as square footage, number of bedrooms, number of bathrooms, and other specifications. In response to the user submitted search criteria, the website sends any plan or plans matching the search criteria.

However, no home plans are created. The home plans sent to the user are not created in response to the search criteria. The home plans of CollectiveDesign were created before being stored on the database and are not created after receiving search criteria. Hence, these home plans on CollectiveDesign are not customized, as they are in Applicants' invention, <u>where home plans are created or modified in response to user inputted information</u>.

Additionally, CollectiveDesign does not disclose, teach, or suggest software for performing work package calculations on the home plan to create a breakdown of all components to design and construct a home. No where does CollectiveDesign do any calculations whatsoever.

APmatics relates to bundling multiple commands together in order to save time and keystrokes. "The ability to add command functions which automate or otherwise facilitate tasks requiring numerous steps using standard CAD commands." APmatics page 1. APmatics does not create the commands or modify them but merely combines them so that several steps are accomplished in sequence with fewer strokes. A combination of APmatics would provide the ability to use the CollectiveDesign website with ease by combining several steps together into something similar to a macro. Because no home plans were created or modified in response to user inputted information, combining the teachings of APmatics would also not provide Applicants' claimed invention.

Also, neither reference discloses, teaches, or suggests software executing on the computer for performing work package calculations, which is software that categorizes and inventories supply and aggregate prices and produces comprehensive breakdowns of all components to design and construct a home (see page 10 of Applicants' specification). The Examiner states on page 4 of the office action that CollectiveDesign provides materials list which details the quantities, type, and size of materials. However, there is nothing in CollectiveDesign to support this statement. Absent such support, Applicants respectfully submit that CollectiveDesign does not provide software for performing work package calculations and, therefore, does not anticipate Applicants' claims 1 and 23. Because all required elements of claims 1, 12, and 23 are not disclosed, taught, or suggested by CollectiveDesign or Apmatics, the rejections should be withdrawn.

Applicants submit that the combination of CollectiveDesign and APmatics does not render Applicants' invention unpatentable absent some modification to the references to meet the terms of Applicants' claims. In order for a reference to be properly modified under 35 U.S.C. §103(a), there must be some teaching or suggestion in the reference to make the suggested modifications in order to provide the motivation for one skilled in the art to make these modifications. There is no teaching or suggestion in either CollectiveDesign or APmatics to provide software for creating a home plan or a modified home plan based upon received responses or requests from users and software for performing work package calculations.

Because the claimed elements of claims 1, 12, and 23 are not provided by the combination of CollectiveDesign and ChooChoo, and because there is no motivation to modify either of these references to provide Applicants' claimed invention, Applicants' invention is not obvious over CollectiveDesign and ChooChoo. Hence, there is no reason why one skilled in the art would modify CollectiveDesign or ChooChoo to arrive at the claimed invention absent having the current application.

Applicants' independent claim 20 requires, among other elements, the following: software executing on the computer, without user intervention, for periodically examining the construction plan stored on a database, for determining if at least one of the construction steps is ready to occur based upon an indication of construction progress, and for creating and transmitting a notification to goods and services providers if at least one of the construction steps is ready to occur.

As mentioned above, CollectiveDesign does not provide a user with anything more than access to a database of house plans. Further, CollectiveDesign does not, in response to any user submitted information, disclose, teach, or suggest software executing without user intervention for periodically examining the construction plan stored on a database. In fact, CollectiveDesign does not perform any examination of any construction plan. CollectiveDesign does not disclose, teach, or suggest software executing without user intervention for determining if at least one of the construction steps is ready to occur based upon an indication of construction progress or software executing without user intervention for creating and transmitting a notification to goods and services providers if at least one of the construction steps is ready to occur. CollectiveDesign does not operate without user intervention. CollectiveDesign does not make any determination if any construction step is ready to occur based upon an indication of construction progress nor does CollectiveDesign create or transmit any notification if a construction step is ready to occur.

Lowery relates to software for keeping track of project information. Lowery does not disclose, teach, or suggest, and the Examiner does not rely upon Lowery for, software for periodically examining the construction plan stored on a database. The Examiner indicated in his office action that Microsoft Project can be used to keep track of project information where a user enters a list of tasks and resources and where the

user creates a project plan. The user can then use Microsoft Project's Tracking Gantt to compare current schedule to the original schedule.

However, Lowery does not disclose, teach, or suggest that software performs any of these steps without user intervention. As stated on page 29 of Applicants' specification, "System 10 periodically retrieves and examines the construction plan 162 from construction plans on database 160 to determine if the job is ready for commencement of the next step 164." Lowery is quite different from Applicants' invention in that user intervention is required in Lowery but not in Applicants' invention.

Microsoft Project is not relied upon, and the office action does not state otherwise, to provide software executing on the computer, without user intervention, for periodically examining a construction plan, for determining if a construction step is ready to occur, or for creating and transmitting a notification if a construction plan is ready to occur.

Because both Lowery and CollectiveDesign both do not disclose, teach, or suggest software executing without user intervention for periodically examining a construction plan, for determining if a construction step is ready to occur, and for creating and transmitting a notification if a construction plan is ready to occur, all of which are claimed in Applicants' claim 20, the combination of Lowery and CollectiveDesign does not render Applicants' invention obvious absent some modification to the references.

In order for a reference to be properly modified under 35 U.S.C. §103(a), there must be some teaching or suggestion in the reference to make the suggested modifications in order to provide the motivation for one skilled in the art to make these modifications.

There is no teaching or suggestion in either CollectiveDesign or Lowery to provide software executing without user intervention for periodically examining the construction plan stored on a database, for determining if at least one of the construction steps is ready to occur based upon an indication of construction progress, and for creating and transmitting a notification to goods and services providers if at least one of the construction steps is ready to occur. Without the requisite teaching or suggestion to provide software executing without user intervention, the references do not provide any reason or logic for such modifications. The person of ordinary skill in the art does not have the current application in front of him/her when considering such modifications. Hence, there is no reason why one skilled in the art would modify CollectiveDesign or Lowery to arrive at the claimed invention absent having the current application.

By the foregoing Remarks and Amendment, Applicants respectfully submit that all pending claims are in order for allowance.

Respectfully submitted,

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